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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No. : 09/743,818 Confirmation No.: 8602
Applicant : Weiss et al.
Filed: : April 26, 2001
TC/A.U. : 1653
Examiner : H. Schnizer
Customer No. : 00270
Title : PROTEASE SUSCEPTIBILITY II

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT IN SUPPORT OF
PETITION UNDER 37 CFR § 1.182**

Sir:

Applicants filed a Petition on April 29, 2004 requesting that the Director of the US Patent and Trademark Office accept entry of the Response enclosed therewith. Pursuant to a telephone request, Applicants are supplying this further statement of the facts regarding non-receipt of the Notice of Non-Compliant Amendment.

The statement of the facts is the following.

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being
facsimile transmitted to the USPTO on September 7, 2004.

Typed or printed name: Lynn Brown

Signature: Lynn Brown

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- (1) Applicants attorneys, Howson and Howson, are the correspondence address for this application, as established at the filing date of the application.
- (2) Howson and Howson has an established procedure for all incoming mail that has been in place for at least ten years. All incoming mail is delivered to a docket clerk at Howson and Howson. The docket clerk opens all the mail and stamps the mail with the date of receipt. For all communications received from the US Patent and Trademark Office relating to a patent application, the docket clerk enters any deadline into an industry-recognized computerized patent and trademark database, designed and supported by CPI (Computer Packages Inc). Thereafter, the deadline is marked on the front page of the communication and the mail is distributed to the patent attorney having responsibility for the patent application.
- (3) This procedure was in place as of the date that the Notice of Non-Compliant Amendment was issued in this application on November 13, 2003.
- (4) In accordance with this procedure for receipt of mail, if the Notice of Non-Compliant Amendment had been received by Howson and Howson's docket clerk, it would have been entered into the docketing system, the deadline stamped on the cover sheet of the communication, and it would have been distributed to the undersigned patent attorney responsible for this application.
- (5) In the present application, the Notice of Non-Compliant Amendment was not received by the docket clerk, apparently having been lost in the mail. Further, Howson and Howson's docketing system triggered a status inquiry because no further communication had been received from the US Patent and Trademark Office within six months of the filing of the response on October 27, 2003. Had the Notice of Non-Compliant Amendment been received, this status inquiry would not have been triggered.

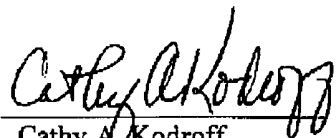
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(6) It is at the prompting of this status inquiry that Tracy U. Palovich (Ms. Palovich), checked the status of this application on the secure access section of the Patent Application Information Retrieval (PAIR) program and noted that a Notice of Non-Compliant Amendment dated November 13, 2003 had been issued.

In view thereof, Applicants respectfully request that the enclosed Response to the outstanding Notice addressing the issues set forth therein be entered as being timely submitted. Applicants also respectfully assert that the filing of a Petition for Extension of Time should not be required since the outstanding Notice had not been received by Applicants prior to April 27, 2004.

Respectfully submitted,

HOWSON AND HOWSON
Attorneys for Applicants

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